

Remarks

Claims 1-15 and 17 were pending in this application prior to this Amendment.

Applicants have now cancelled claim 3. Thus, Claims 1-2, 4-15, and 17 are now pending.

Applicants appreciate the indication in the Office action that Claims 3-4, 7, and 17 contain allowable subject matter and would be allowed if rewritten as independent claims.

In the Amendment above, Applicants amended Claim 1 to include the features of Claim 3, which previously depended from Claim 1 and which was indicated to contain allowable subject matter. As the allowable features of prior Claim 3 are now present in Independent Claim 1, Claim 1 is in condition for allowance. As Claims 2 and 4-9 depend on Claim 1 (some though intervening claims), these Claims are also in condition for allowance.

Applicants have also amended Independent Claims 10, 11, 12, and 14 in such manner that they are believed to be in condition for allowance. As all the remaining Claims depend from one of these Independent Claims, all claims are believed to be in condition for allowance.

A. Alleged Anticipation of Claims 1-2, 9-12, and 14-15 by Amschlinger et al

WO01/60699

1. Claims 1-2 and 9

The Office action alleges that Claims 1-2 and 9 are anticipated by Amschlinger.

Although Applicant does not agree, Applicants have amended Claim 1 to include the features of Claim 3, which previously depended from Claim 1 and which was indicated to contain allowable subject matter. As the allowable features of prior Claim 3 are now present in Independent Claim 1, Claim 1 is in condition for allowance.

As Claims 2 and 4-9 depend on Claim 1 (some though intervening claims), these Claims are also in condition for allowance.

Applicant reserves the right to pursue the subject matter of previously pending Claim 1 in a continuation application.

2. Claim 10

The Office action indicates that Independent Claim 10 is rejected over Amschlinger in heading 2. on page 2 of the Office action. However, there is no discussion of how Amschlinger allegedly anticipates Claim 10. Thus, it is unclear whether Claim 10 has actually been rejected or on what basis.

Applicants have nevertheless amended Claim 10 to include the feature that the cover part comprises a peripheral skirt wall, and the skirt wall has a snap-fit engagement part adjacent its lower extremity to engage with the clamp part. This is effectively the feature of prior Claim 3 that the Office action indicated rendered amended Claim 1 allowable. The addition of this feature to Claim 10 should likewise render Claim 10 clearly allowable. Thus, amended Claim 10 is in condition for allowance.

3. Claim 11

The Office action alleges that Claim 11 is anticipated by Amschlinger. Although Applicants do not agree, Applicants have amended Claim 11 to add the feature that the cover part comprises an upper wall and a peripheral skirt wall and that the snap fit engageability of the cover part and the clamp part comprises a snap-fit between the clamp part and the skirt wall. This feature is not disclosed by Amschlinger. Thus, Claim 11 as amended is not anticipated and is in condition for allowance.

Applicant also notes that in the fifth paragraph of the claim a recitation of “cover part” has been amended to “clamp part” for clarity. As can be seen in original claims 10-11 in the

PCT application, this amendment comports the claims with the intended relationship of the features.

4. Claim 12

The Office action indicates that Independent Claim 12 is rejected over Amschlinger in heading 2. on page 2 of the Office action. However, there is no discussion of how Amschlinger allegedly anticipates Claim 12. Thus, it is unclear whether Claim 12 has actually been rejected, or on what basis. Indeed, it does not appear that Amschlinger anticipates Claim 12 as Amschlinger fails to disclose a snap fit feature between the cover part and the clamp part as claimed in Claim 12.

Applicant also has amended Claim 12 to add the feature that the cover part comprises a peripheral skirt wall (which is supported at least by prior Claim 3). This feature is not disclosed by Amschlinger.

Thus, Claim 12 is not anticipated and is in condition for allowance.

5. Claim 14

The Office action indicates that Independent Claim 14 is rejected over Amschlinger in heading 2. on page 2 of the Office action. However, there is no discussion of how Amschlinger allegedly anticipates Claim 14. Thus, it is unclear whether Claim 14 has actually been rejected, or on what basis.

Applicants have nevertheless amended Claim 14 to include the cooperation of the vial and closure in the Claim and to clarify the interrelationships of the features. Applicants have further included the feature that the plug part is suitable for being punctured by a needle (which is supported at least at page 13, lines 12-14). These features and the other features of Claim 14 are not all disclosed by Amschlinger.

Thus, Claim 14 is not anticipated and is in condition for allowance.

6. Claim 15

The Office action indicates that Claim 14 is rejected over Amschlinger in heading 2. on page 2 of the Office action. However, there is no discussion of how Amschlinger allegedly anticipates Claim 15. Thus, it is unclear whether Claim 15 has actually been rejected, or on what basis.

However, as Claim 15 depends from Independent Claim 14, which is not anticipated, Claim 15 also is not anticipated.

In sum, none of the claims are anticipated by Amschlinger. Applicant requests that these rejections be withdrawn.

B. Alleged Obviousness of Claims 5-6, 8 and 13

1. Claims 5-6

The Office action asserts that Claims 5-6 are allegedly obvious over Amschlinger et al WO01/60699 in combination with Burns (Pat. No. 5,699,923). Claim 5 depends from amended Independent Claim 1 and Claim 6 from Claim 5. As the Office action indicates that amended Independent Claim 1 is in allowable condition, dependent claims 5-6 are also allowable. These claims are further allowable for their unique and non-obvious features.

2. Claim 8

The Office action asserts that Claim 8 is allegedly obvious over Amschlinger et al WO01/60699. Claim 8 depends from amended Independent Claim 1. As the Office action indicates that amended Independent Claim 1 is in allowable condition, dependent Claim 8 is also allowable. This Claim is further allowable for its other unique and non-obvious features.

3. Claim 13

Claim 13 depends from amended Independent Claim 12. The Office action asserts that Claim 13 is allegedly obvious over Amschlenger et al WO01/60699 in combination with Py (Pat. No. 6,604,561). In this regard, the Office action alleges that Amschlenger teaches all the features substantially as claimed, other than the feature of filling the container with a needle by piercing the stopper and sealing the opening with residual heat. The Office action alleges that Py discloses this feature not disclosed by Amschlenger and that it would have been obvious to take those steps in the operation of the container disclosed by Amschlenger.

Applicant traverses. Amschlenger fails to disclose a snap fit feature between the cover part and the clamp part as claimed in Independent Claim 12. Amschlenger also fails to disclose a snap-fit between a peripheral skirt wall of the cover part and the clamp part as further recited in Claim 12.

Thus, even assuming, arguendo, that it would be obvious to combine the alleged residual heat sealing feature of Py with to container disclosed by Amschlenger, such a combination would not result in performance of the method claimed in Claim 13. The method of Claim 13 includes engaging a cover part with the clamp part to cover the said region of the closure part by means of a snap-fit between a peripheral skirt wall of the cover part and the clamp part. As this structure is not disclosed by Amschlenger or Py, a method using such structure cannot be obvious in view of any combination Amschlenger and Py.

C. Conclusion

In view of the foregoing, all of the pending claims are in condition for allowance and such action is respectfully requested.


If the Examiner believes that any further action would place this application in better condition for allowance, he is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

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